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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO.              | CONFIRMATION NO. |
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| 09/580,233   | 05/26/2000  | Richard I. Adduci JR. | 10022/15                         | 8233             |
| 33391  | 7590        | 03/13/2006            |                                  |                  |
| BRINKS HOFFER GILSON & LIONE<br>ONE INDIANA SQUARE, SUITE 1600<br>INDIANAPOLIS, IN 46204 |             |                       | EXAMINER<br>BORLINGHAUS, JASON M |                  |
|  |             |                       | ART UNIT                         | PAPER NUMBER     |
|  |             |                       | 3628                             |                  |
| DATE MAILED: 03/13/2006  |             |                       |                                  |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |   |                                      |  |
|------------------------------|---|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/580,233    | <b>Applicant(s)</b><br>ADDUCI ET AL. |  |
|                              | <b>Examiner</b><br>Jason M. Borlinghaus | <b>Art Unit</b><br>3628              |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 08 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 1 – 7, 9 – 10, 17 – 23 and 25 – 26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kotler (Kotler, Philip & Armstrong, Gary. *Principles of Marketing 8<sup>th</sup> Edition*. Prentice Hall. Upper Saddle River, New Jersey. 1999. pp. 98 - 114, 156 – 159, 196 – 215, 250 – 268, 274 – 294, 305 – 309, 320, 328 – 345 and A1 – A14) in view of Disclosed Prior Art (applicant's specification), Bohlin (Bohlin, Erik & Levin, Stanford L. *Telecommunications Transformation: Technology, Strategy & Policy*. IOS Press. Amsterdam, Netherlands. 1998. p. 15), Dorf (Dorf, Richard C. *The Technology Handbook* CRC Press. Boca Raton, Florida. 1999. pp. 3-20 – 3-27), Porter (Porter, Alan; Roper, A. Thomas; Mason, Thomas W.; Rossini, Frederick A.; Banks, Jerry. *Forecasting & Management of Technology*. John Wiley & Sons. 1991. pp. 90 –

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97), Mahajan (Mahajan, Vijay & Peterson, Robert A. *Models for Innovation Diffusion*. Sage Publications. Newbury Park, California. 1985. p. 8), Townsend (Townsend, Carl. *Mastering Excel 4 For Windows*. Sybex. Alameda, California. 1992. pp. 387 – 397, 423 – 451 and 624 – 636) and Weerahandi (Weerahandi, Samaradasa & Moitra, Soumyo. *Using Survey Data to Predict Adoption and Switching for Services*. *Journal of Marketing Research*. vol. 32, iss. 1. February 1995. pp. 85 - 96).

**Regarding Claim 1**, Kotler discloses a method comprising the steps of:

- accepting (gathering) user-specific input (consumer answers) relating to a new product or service (via concept testing and/or test marketing). (see pp. 279 – 280 and 282 – 284);
- accepting user-specific input (respondents answers) into a computer relating to a new product or service and an existing product of service (via computer interviewing and/or online marketing research). (see pp. 110 – 114);
- accepting (obtaining) market data input (marketing information) for entering existing data (internal data) about the existing product or service. (see pp. 100 – 101);
- accessing a reference database (commercial online database) including general market data (secondary data/industry information) applicable to the new product or service. (see pp. 106 – 109 and A4 – A5);
- utilizing a standard adoption curve (Figure 5-7) for adoption of the new product or service. (see pp. 156 – 159);

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- said standard adoption curve (rate of adoption) differs based upon characteristics of product or service (costs), and market (social approval). (see pp. 156 – 159);
- accessing a reference database (internal database), wherein the reference database (internal database) includes revenue data value (records of sales, costs and cash flows from accounting) associated with the existing product or service. (see pp. 100 – 101);
- consideration of cost data values associated with a new product or service (see p. 281); and
- estimating at least one potential revenue stream (sales forecast) associated with at least one new product or service, wherein estimating comprises generating at least one revenue estimate (sales forecast) based on the accepted user input (surveys of market opinion), the revenue data value (sales history of similar products), general market data (industry sales information) and forecasted demand. (see pp. 281 and A1 – A8).

Kotler does not teach the underlined limitations – a method comprising the steps of:

- accepting user-specific input into a computer relating to an existing wireless communication service and the enhanced wireless communication service, wherein the user-specific input includes a wireless application selection for selecting at least one wireless application

supported by the enhanced wireless communication service and a market data input for entering existing data about the existing wireless communication service;

- accessing a reference database including general market data applicable to the enhanced wireless communication service and a standard adoption curve for adoption of the enhanced wireless communication service, wherein the reference database further includes a first set of cost data values associated with a wireless infrastructure deployment cost and a second set of cost data values associated with an operations and maintenance cost for the enhanced wireless communication service, wherein the reference database further includes a revenue data value associated with the existing wireless communication service;
- adjusting the standard adoption curve to obtain an adjusted adoption curve based on the accepted user-specific input;
- presenting a graphical depiction of a financial analysis based on an evaluation of the at least on potential revenue value, the adjusted adoption curve, the general market data, the first set of cost data values, the second set of cost data values and the revenue data.

Disclosed Prior Art discloses a method comprising:

- the existence of an existing wireless service (existing basic wireless communication service). (see p. 1, line 6 – p. 4, line 10);

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- the existence of an enhanced wireless service (enhanced wireless communication service), wherein at least one wireless application (mobile Internet access) is supported by the enhanced wireless service. (see p. 1, line 6 – p. 4, line 10); and
- the existence of a cost data value associated with a wireless infrastructure deployment cost. (see p. 1, line 6 – p. 4, line 10).

Kotler does not teach that all steps in the marketing and business analysis methodology are automated. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have automated the method, since it has been held that broadly providing a mechanical or automatic means to replace manual activity that accomplishes the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler to allow for application of standard marketing and business analysis methodology to any product or service that the inventor desired, such as basic wireless services, enhanced wireless services and/or wireless applications available via enhanced wireless services, as disclosed by Disclosed Prior Art, to utilize traditional methodologies when considering line extensions (see Kotler, pp. 250 – 251 and 255 – 257), product mix changes (see Kotler, pp. 257 – 258) or developing new products or services (see Kotler, pp. 279 – 286). *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler and Disclosed Prior Art to allow for any user-specific input that the inventor desired, such as a wireless application selection for selecting at least one wireless application supported by the enhanced wireless service, as marketing research is tailored to provide information "relevant to a specific marketing situation facing an organization." (see Kotler, pp. 101 and 109 – 114). In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler and Disclosed Prior Art to allow for consideration of any costs associated with the new product or service that the inventor desired, such as infrastructure deployment costs, as disclosed by Disclosed Prior Art, and operations and maintenance costs, as costs, in general, are considered in business analysis of products and services (see Kotler, pp. 281, 305 – 309 and 320). In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

Adoption curves are by their very nature a measurement of the rate of adoption of a product and, as such, the rate of adoption of any two products may differ from the standard adoption curve, as is old and well known in the art of trend analysis and forecasting, as evidenced by Mahajan (see p. 8) or Bohlin (see p. 15).

Alteration and/or adjustment of a theoretical model, such as a standard adoption curve, based upon the collection of data, such as user-specific input, is old and well known in the art of trend analysis and forecasting, as suggested by Dorf which states that the adoption curve is merely a theoretical model which "oversimplifies a complex



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reality" due to basic assumptions of the model. (see pp. 3-25 – 3-26). And as evidenced by Porter which states using a synthetic methodology for forecasting through the use of a basic framework modified on the basis of empirical data collected. (see pp. 90 – 92).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler and Disclosed Prior Art by incorporating the ability to adjust the adoption curve through user-specific input, as disclosed by Porter, to account for the model's oversimplification, as disclosed by Dorf, allowing for an accurate measurement of the actual rate of adoption of the product which is dependent upon the actual product, as disclosed by Mahajan and Bohlin, since characteristics of product or service, and market may affect adoption curve, as disclosed by Kotler.

Utilizing an adoption curve to forecast demand is old and well known in the art of trend analysis and forecasting, as evidenced by Weerahandi which discusses the use of adoption curves to forecast demand for products and services, specifically telecommunication services. (see pp. 85 – 96). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf and Porter by incorporating the use of the adoption curve to forecast demand, as disclosed by Weerandi, as the adoption curve is a traditional demand forecasting tool.

Graphical representation of financial data and/or financial analysis is old and well known in the art of financial management and information systems, as evidenced by Townsend which discusses graphical representation of financial data and/or financial analysis (see pp. 387 – 397). It would have been obvious to one of ordinary skill in the

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art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter and Weerandi by incorporating the ability to graphical represent financial data and/or financial analysis conducted, as disclosed by Townsend, allowing for better communication of said financial data and/or financial analysis through graphical representation.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend to allow for any graphical representation of the data as that the inventor desired, as Townsend states "Excel's charting features are extremely flexible." (see p. 423). *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

**Regarding Claims 2 – 3**, Kotler discloses a method wherein:

- accepting (gathering) user-specific input (consumer answers) relating to a new product or service (via concept testing and/or test marketing). (see pp. 279 – 280 and 282 – 284);
- segmenting a market by geographic region (geographic location/geographic units). (see pp. 202 – 215);
- segmenting a market by affluence (income). (see p. 205);
- segmenting a market by multiple factors (geodemographic segmentation). (see pp. 209 – 215);
- utilizing a standard adoption curve (Figure 5-7) for adoption of the new product or service. (see pp. 156 – 159);

- said standard adoption curve (rate of adoption) differs based upon characteristics of product or service (ie. costs), and market. (see pp. 156 – 159);
- said adoption curve having a slope (Fig. 5-7). (see pp. 156-157); and
- said adoption curve having a saturation point (Fig. 5-7). (see pp. 156 – 157).

Kotler does not teach the underlined limitations – a method wherein:

- the adjusting step comprises adjusting the standard adoption curve based on a user input of a selected geographic region from a library of regions and a selected application from a library of applications of the enhanced wireless communications service;
- changing a slope from the standard adoption curve to a revised slope of an adjusted adoption curve based on the user input of a specific geographic region;
- the adjusting step comprises adjusting the standard adoption curve based on a user input of a selected geographic region from a library of regions and a selected application from a library of applications of the enhanced wireless communications service;
- changing a slope from the standard adoption curve to a revised slope of an adjusted adoption curve based on the user input of a specific geographic region;

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- the adjusting step comprises changing a saturation point from the standard adoption curve to a revised saturation point of one of the adjusted adoption curve and the adjusted adoption curve based on the user input of a specific application;
- increasing a slope from the standard adoption curve to a revised slope of an adjusted adoption curve based on the user input of a more affluent region than average for deploying the enhanced wireless communications service;
- decreasing a slope from the standard adoption curve to a revised slope of an adjusted adoption curve based on the user input of a less affluent region than average for deploying the enhanced wireless communications service; and
- the adjusting step comprises lowering a saturation point from the standard adoption curve to a revised saturation point on one of the standard adoption curve and the adjusted adoption curve based on the user input of a particular application.

Disclosed Prior Art discloses a method comprising:

- the existence of an enhanced wireless service (enhanced wireless communication service), wherein at least one wireless application (mobile Internet access) is supported by the enhanced wireless service. (see p. 1, line 6 – p. 4, line 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend to allow for any user-specific input that the inventor desired, such as basic wireless services, enhanced wireless services and/or wireless applications available via enhanced wireless services, as marketing research is tailored to provide information "relevant to a specific marketing situation facing an organization." (see Kotler, pp. 101 and 109 – 114). In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating segmentation of the user input into distinct groups to allow for application of standard marketing and business analysis methodology, such as market segmentation (see pp. 196 – 215), to any product or service that the inventor desired, such as basic wireless services and/or enhanced wireless services, as disclosed by Disclosed Prior Art, to utilize traditional methodologies when considering line extensions (see Kotler, pp. 250 – 251 and 255 – 257), product mix changes (see Kotler, pp. 257 – 258) or developing new products or services (see Kotler, pp. 279 – 286). In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating segmentation of the user input into

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distinct groups by any demographic variable that the inventor desired, such as by geographic region, affluence or a combination of demographic variables, all disclosed by Kotler, allowing producers to assess the attractiveness of each market segment individually. *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

Selecting an item from a library of items on a computer, such as selecting a function and/or variable from a listing of possible functions and/or variables contained in a drop-down menu, is old and well known in the art of information systems, as disclosed by Townsend (see pp.624 – 636). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating the ability to select an item from a library of items on a computer, as is disclosed by Townsend, allowing for a user friendly interface.

It would have been obvious to one of ordinary skill in the arts at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating any variable and/or function into the library of items and/or variables for user selection that the inventor desired, such as selection of a geographic region. *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

Adoption curves are by their very nature a measurement of the rate of adoption of a product and, as such, the rate of adoption of any two products may differ from the standard adoption curve, as is old and well known in the art of trend analysis and forecasting, as evidenced by Mahajan (see p. 8) or Bohlin (see p. 15).

Alteration and/or adjustment of a theoretical model, such as a standard adoption curve, based upon the collection of data, such as user-specific input, is old and well known in the art of trend analysis and forecasting, as suggested by Dorf which states that the adoption curve is merely a theoretical model which “oversimplifies a complex reality” due to basic assumptions of the model. (see pp. 3-25 – 3-26). And as evidenced by Porter which states using a synthetic methodology for forecasting through the use of a basic framework modified on the basis of empirical data collected. (see pp. 90 – 92).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating the ability to adjust the adoption curve through user-specific input, as disclosed by Porter, to account for the model’s oversimplification, as disclosed by Dorf, allowing for an accurate measurement of the actual rate of adoption of the product which is dependent upon the actual product, as disclosed by Mahajan and Bohlin, since characteristics of product or service, and market may affect adoption curve, as disclosed by Kotler.

Differences among adoption curves include differences in the slope and saturation point of adoption curves as is well known in the art of trend analysis and forecasting, as evidenced by Mahajan which discloses that the “exact form of each [adoption] curve, including the slope and the asymptote [saturation point], may differ.” (see p. 8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating the ability to adjust the adoption

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curve's slope and saturation point, as disclosed by Mahajan, allowing for an accurate measurement of the actual rate of adoption of the product which differs by product.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating segmentation of the user input into distinct groups, as disclosed by Kotler, into the adjustment of the adoption curve, allowing producers to assess the attractiveness of each market segment individually.

**Regarding Claim 9 - 10**, Kotler discloses a method further comprising the step of:

- accepting (gathering) user-specific input (consumer answers) relating to a new product or service (via concept testing and/or test marketing). (see pp. 279 – 280 and 282 – 284);
- estimating revenue (sales projection) of the new product or service. (see p. 281);
- estimating costs (cost projections) of the new product or service. (see p. 281);
- forecasting demand. (see A1 – A8);
- segmenting a market by geographic region (geographic location/geographic units). (see pp. 202 – 215);
- utilizing a standard adoption curve (Figure 5-7) for adoption of the new product or service. (see pp. 156 – 159); and



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- said standard adoption curve (rate of adoption) differs based upon characteristics of product or service (ie. costs), and market (ie. marketing). (see pp. 156 – 159);

Kotler does not teach the underlined limitations - a method further comprising the step of:

- estimating revenue of the enhanced wireless communications service within a geographic region based on the accepted user input and the adjusted adoption curve; and
- estimating cost of the enhanced wireless communications service within a geographic region based on the accepted user input and the adjusted adoption curve.

Disclosed Prior Art discloses a method comprising:

- the existence of an enhanced wireless service (enhanced wireless communication service), wherein at least one wireless application (mobile Internet access) is supported by the enhanced wireless service. (see p. 1, line 6 – p. 4, line 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating segmentation of the user input into distinct groups to allow for application of standard marketing and business analysis methodology, such as market segmentation (see pp. 196 – 215), to any product or service that the inventor desired, such as basic wireless services and/or enhanced

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wireless services, as disclosed by Disclosed Prior Art, to utilize traditional methodologies when considering line extensions (see Kotler, pp. 250 – 251 and 255 – 257), product mix changes (see Kotler, pp. 257 – 258) or developing new products or services (see Kotler, pp. 279 – 286). In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

Adoption curves are by their very nature a measurement of the rate of adoption of a product and, as such, the rate of adoption of any two products may differ from the standard adoption curve, as is old and well known in the art of trend analysis and forecasting, as evidenced by Mahajan (see p. 8) or Bohlin (see p. 15).

Alteration and/or adjustment of a theoretical model, such as a standard adoption curve, based upon the collection of data, such as user-specific input, is old and well known in the art of trend analysis and forecasting, as suggested by Dorf which states that the adoption curve is merely a theoretical model which “oversimplifies a complex reality” due to basic assumptions of the model. (see pp. 3-25 – 3-26). And as evidenced by Porter which states using a synthetic methodology for forecasting through the use of a basic framework modified on the basis of empirical data collected. (see pp. 90 – 92).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating the ability to adjust the adoption curve through user-specific input, as disclosed by Porter, to account for the model's oversimplification, as disclosed by Dorf, allowing for an accurate measurement of the actual rate of adoption of the product which is dependent upon the actual product, as

disclosed by Mahajan and Bohlin, since characteristics of product or service, and market may affect adoption curve, as disclosed by Kotler.

Utilizing an adoption curve to forecast demand is old and well known in the art of trend analysis and forecasting, as evidenced by Weerahandi which discusses the use of adoption curves to forecast demand for products and services, specifically telecommunication services. (see pp. 85 – 96). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf and Porter by incorporating the use of the adoption curve to forecast demand, as disclosed by Weerandi, as the adoption curve is a traditional demand forecasting tool.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating the use of an adoption curve as a demand forecasting tool, as disclosed by Weerandi, to allow for application of standard marketing and business analysis methodology, as disclosed by Disclosed Prior Art, to utilize traditional methodologies when considering line extensions (see Kotler, pp. 250 – 251 and 255 – 257), product mix changes (see Kotler, pp. 257 – 258) or developing new products or services (see Kotler, pp. 279 – 286). In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

**Regarding Claim 17 – 23**, further system claims would have been obvious from method claims rejected above, Claims 2 - 7, and are therefore rejected using the same art and rationale.

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**Regarding Claims 25 - 26**, further system claims would have been obvious from method claims rejected above, Claims 9 - 10, and are therefore rejected using the same art and rationale.

**Claims 8 and 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend, as in Claims 1 and 17 above, and in further view of Kroenke (Kroenke, David M. *Database Processing: Fundamentals, Design & Implementation 6<sup>th</sup> Edition*. Prentice Hall. Upper Saddle River, New Jersey. 1998).

**Regarding Claim 8**, Kotler does not teach underlined limitations - a method further comprising the step of:

- assigning a first level security for a user with respect to the presenting step and the accepting step and assigning a second level of security higher than the first level of security with respect to the user being capable of modifying the contents of the reference database.

Assigning different levels of security to different users is old and well known in the art of database design, as evidenced by Kroenke which states "A subject is any identifiable user or user group that can process the database...With subject-oriented security, the subject is defined to the DBMS, and each is allocated permissions. Before allowing the subject to perform a database action, the DBMS confirms that he or she or it has such authority." (see pp. 295 – 296). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler,

Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating multiple security levels, as was disclosed by Kroenke, to prevent the users, from which information is obtained, from deleting or modifying the information obtained once recorded.

**Regarding Claim 24**, further system claim would have been obvious from method claim rejected above, Claim 8, and is therefore rejected using the same art and rationale.

**Claims 11 and 27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend, as in Claims 1 and 17 above, and in further view of Finnerty (Finnerty, John D. *Project Financing: Asset-Based Financial Engineering*. John Wiley & Sons. New York, New York. 1996. p. 144).

**Regarding Claim 11**, Kotler discloses a method wherein the presenting step comprises:

- providing a graphical depiction consisting of a market segment graph. (see page 209, figure 7-3);
- segmenting the market. (see pp. 196 - 208);
- forecasting subscribers to a new product or service. (see A1 – A8); and
- calculating revenue (sales projections) and cost projections. (cost projections). (see p. 281).

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Kotler does not teach the underlined a method wherein the presenting step comprises:

- providing a graphical depiction selected from the group consisting of a revenue by a market segment graph;
- a cash-flow projection graph;
- number of subscribers by application of the enhanced wireless service;  
and
- number of subscribers by market segment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating segmentation of the user input into distinct groups to allow for application of standard marketing and business analysis methodology, such as market segmentation (see Kotler, pp. 196 – 215), to any product or service that the inventor desired, such as basic wireless services, enhanced wireless services and/or applications available via enhanced wireless service, as disclosed by Disclosed Prior Art, to utilize traditional methodologies when considering line extensions (see Kotler, pp. 250 – 251 and 255 – 257), product mix changes (see Kotler, pp. 257 – 258) or developing new products or services (see Kotler, pp. 279 – 286). In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating segmentation of the market into the

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standard marketing and business methodologies, such as revenue projections and demand forecasts, as disclosed by Kotler, allowing producers to assess the attractiveness of each market segment individually.

Cash-flow projections are old and well known in the art of financial and business analysis, as evidenced by Finnerty (see p. 144). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating a cashflow projection, as disclosed by Finnerty, to assess the attractiveness of new product or service.

Graphical representation of financial data and/or financial analysis is old and well known in the art of financial management and information systems, as evidenced by Townsend which discusses graphical representation of financial data and/or financial analysis, such as a graphical depiction of revenue by market segment. (see Townsend, pp. 387 – 397). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi, Townsend and Finnerty by incorporating the ability to graphically represent financial data and/or financial analysis conducted, as disclosed by Townsend, allowing for better communication of said financial data and/or financial analysis through graphical representation.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend to allow for any graphical representation of the data as

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that the inventor desired, as Townsend states “Excel’s charting features are extremely flexible.” (see p. 423). In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

**Regarding Claim 27**, further system claim would have been obvious from method claim rejected above, Claim 11, and is therefore rejected using the same art and rationale.

**Claims 12 - 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend, as in Claim 1 above, and in further view of Heizer (Heizer, Jay & Render, Barry. *Operations Management 5<sup>th</sup> Edition*. Prentice Hall. Upper Saddle River, New Jersey. 1999. pp. 139 – 176, 246 – 262 and 703 - 714).

**Regarding Claims 12 – 13**, Kotler discloses a method wherein:

- financial analysis of new product or service. (see p. 281); and
- variable factors considered in said financial analysis:
  - operating costs (costs/variable costs) of the product or service. (see pp. 281 and 305 - 309);
  - investment costs (costs/fixed costs) of the product or service. (see pp. 281 and 305 – 309);
  - market uptake (sales/demand) of the product or service. (see pp. 281 and 309 – 319);
  - usage rate (sales/demand) of the product or service. (see pp. 281 and 309 – 319); and



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- price level (price) for the product or service (see pp. 303 – 319. Price calculations inherent in profit projections utilized in business analysis – see p. 281).

Kotler does not teach the underlined limitations - a method wherein:

- the financial analysis comprises a sensitivity analysis showing the sensitivity of net present value of a business based on the enhanced wireless communications service to a change in at least one variable factor; and
- the at least one variable factor is selected from the group consisting of operating costs of the enhanced wireless service, investment costs of the enhanced wireless service, market uptake of the enhanced wireless service, usage rate of the enhanced wireless service, and price level for service offerings of the enhanced wireless service.

Disclosed Prior Art discloses a method comprising:

- the existence of an enhanced wireless service (enhanced wireless communication service). (see p. 1, line 6 – p. 4, line 10).

Heizer discloses a method wherein:

- the financial analysis comprises an analysis of net present value of a business based on a product or service. (see pp. 257 - 262);
- said net present value is based upon a number of variable factors. (see pp. 257 - 261);

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- the financial analysis comprises a sensitivity analysis showing the sensitivity of financial analysis of a business based upon a change in at least one variable factor (parameter). (see pp. 703 - 714);
- variable factors considered in financial analysis include:
  - operating costs (costs/variable costs) of product or service. (see p. 257);
  - investment costs (costs/investment cost) of product or service. (see p. 257);
  - market uptake (volume/demand) of the product or service. (see pp. 139 – 176 and 257);
  - usage rate (volume/demand) of the product or service. (pp. 139 – 176 and 257); and
  - price level for the product or service. (p. 257 – It is inherent that a price level would need to be determined in order to calculate revenue, cash flow and net present value.)

It would have been obvious to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating the application of standard marketing and business analysis methodology, such as business analysis utilizing standard factors in said analysis (see Kotler, p. 281), to any product or service that the inventor desired, such as basic wireless services, enhanced wireless services, and/or applications available via enhanced wireless service, as disclosed by Disclosed Prior Art, to utilize traditional methodologies when considering line extensions (see

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Kotler, pp. 250 – 251 and 255 – 257), product mix changes (see Kotler, pp. 257 – 258) or developing new products or services (see Kotler, pp. 279 – 286). In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

It would have been obvious to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend by incorporating a net present value calculation, as disclosed by Heizer, and a sensitivity analysis, as disclosed by Heizer, of said calculation allowing for the application of standard business analysis methodologies to a business concern that is contemplating a strategic investment and is basing its business analysis upon projections, which may contain some fluctuations and/or variance.

Selecting an item from a group of items on a computer, such as selecting a function and/or variable from a listing of possible functions and/or variables contained in a drop-down menu, is old and well known in the art of information systems, as disclosed by Townsend (see pp.624 – 636). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi, Townsend and Heizer by incorporating the ability to select an item from a library of items on a computer, as is disclosed by Townsend, allowing for a user friendly interface.

**Regarding Claim 14**, Kotler does not teach the underlined limitations - a method wherein the financial analysis comprises:

- a bar chart of different variable factors potentially impacting net present value of a business based on the enhanced wireless communications

service, the variable factors presented as horizontally extending bars along a vertical axis, a respective percentage change in the net present value for a corresponding incremental constant change in a variable factor indicated by the horizontal length of the bar from the vertical axis.

Disclosed Prior Art discloses a method comprising:

- the existence of an enhanced wireless service (enhanced wireless communication service). (see p. 1, line 6 – p. 4, line 10).

Heizer discloses a method wherein the financial analysis comprises:

- different variables potentially impacting net present value of a business based on a product or service. (see pp. 257 - 262).

Townsend discloses a method wherein the financial analysis comprises:

- a bar chart, the variable factors presented as horizontally extending bars along a vertical axis. (see pp. 423 – 454, specifically p. 425, Fig. 20.2).

It would have been obvious to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi, Townsend and Heizer by incorporating the application of standard marketing and business analysis methodology, such as calculation of net present value (see Heizer, pp. 257 - 262), to any product or service that the inventor desired, such as basic wireless services, enhanced wireless services, and/or applications available via enhanced wireless service, as disclosed by Disclosed Prior Art, to utilize traditional methodologies when considering strategic investments. (see Heizer, pp. 257 – 262). In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi, Townsend and Heizer by incorporating the ability to graphical represent financial data and/or financial analysis conducted, as disclosed by Townsend, allowing for better communication of said financial data and/or financial analysis through graphical representation.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi and Townsend to allow for any graphical representation of the data as that the inventor desired, as Townsend states "Excel's charting features are extremely flexible." (see p. 423). *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

**Regarding Claims 15 – 16**, Kotler discloses a method wherein:

- the financial analysis comprises graphing demand based upon average revenue (selling price/product price multiplied by quantity/units) per users (buyers/customers) per measured time interval year. (see pp. 328 – 345 and A1 – A14, specifically A1 – A2);
- creating market segments. (see pp. 196 – 215); and
- the market segments include an adult market segment (age and life cycle segmentation), a youth market segment (age and life cycle segmentation), a large business market segment (business market segmentation by company size), a medium business market segment (business market

segmentation by company size), and small business market segment (business market segmentation by company size). (see pp. 196 – 215).

Kotler does not teach the underlined limitations - a method wherein:

- the financial analysis comprises a graph of average revenue per user per a measured time interval, the graph including a group of plotted lines representing said average revenue per user within different market segments versus time.

Heizer discloses a method wherein:

- the financial analysis comprises graphing revenue per unit per a measured time interval, the graph representing revenue versus time. (see pp. 246 – 256).

Townsend discloses a method wherein the financial analysis comprises:

- the financial analysis comprises a graph of revenue per product versus time. (see pp. 423 - 431);
- the graph including a group of plotted lines representing said revenue per product versus time. (see pp. 423 – 431); and
- the graph of revenue within different market segments (geographic segments). (see pp. 423 - 431).

It would have been obvious to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi, Townsend and Heizer by incorporating the application of standard marketing and business analysis methodology, such as analysis of revenue over time, average revenue over time and average revenue per user per

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measured time interval, and division of said revenue and/or users into market segments (see Heizer, pp. 257 – 262 and Kotler, pp. 196 – 215 and 281), to utilize traditional methodologies when considering strategic investments. (see Heizer, pp. 257 – 262), line extensions (see Kotler, pp. 250 – 251 and 255 – 257), product mix changes (see Kotler, pp. 257 – 258) or developing new products or services (see Kotler, pp. 279 – 286).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi, Townsend and Heizer by incorporating the ability to graphical represent financial data and/or financial analysis conducted, as disclosed by Townsend, allowing for better communication of said financial data and/or financial analysis through graphical representation.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kotler, Disclosed Prior Art, Mahajan, Bohlin, Dorf, Porter, Weerandi, Townsend and Heizer to allow for any graphic representation of financial data and/or financial analysis that the inventor desired, such as the net present value and impacting variables on said net present value, as disclosed by Heizer. In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

### ***Response to Arguments***

Applicant's arguments with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection.

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Furthermore, applicant's arguments concerning Claim 17 is inadequate as applicant does not cite with specificity which limitations were not addressed nor which limitations would not have been obvious based upon the previously claimed method's art and rationale.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Borlinghaus whose telephone number is (571) 272-6924. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (571) 272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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